

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

May 26, 2004

STIPULATION

BANGOR HYDRO-ELECTRIC CO.
Revision to Terms and Conditions to
Provide Updated Cost Information for
Services Provided to Customers

Docket No. 2004-33

BANGOR HYDRO-ELECTRIC CO.
Review of Annual Price Change
Pursuant to BHE's Alternative Rate Plan

Docket No. 2004-192

Bangor Hydro-Electric Company ("BHE"), the Office of the Public Advocate ("OPA") and the Industrial Energy Consumers Group ("IECG"), hereby agree and stipulate as follows:

I. PURPOSE

The purpose of this Stipulation is to settle all issues in Docket Nos. 2004-33 and 2004-192, to avoid a hearing on those issues raised in this case and to expedite the Public Utilities Commission's consideration and resolution of the proceeding. The provisions agreed to herein have been reached as a result of information gathered through discovery and discussions among the parties in this case.

II. PROCEDURAL BACKGROUND

1. On March 3, 2004, BHE filed its Petition for an Accounting Order authorizing it to amortize over 10 years the costs it will incur related to the severance or early retirement of several of its employees (Employee Transition Costs). This filing was given the Docket No. 2004-166.

2. On March 13, 2004, BHE submitted its annual filing pursuant to the Alternate Rate Plan ("ARP") Stipulation approved by this Commission in Docket No. 2001-410 by Order dated June 11, 2002 ("ARP Stipulation"). This filing was given the Docket No. 2004-192. As part of this filing, BHE proposed, as its Annual Percentage Price Change, to decrease core distribution rates by 1.66%, which was derived by offsetting the scheduled 2.75% ARP Basic Rate Reduction by 1.07% for costs that BHE claimed qualified as Mandated Costs under the ARP and by .02% for certain adjustments proposed by BHE to remove from the ARP price change the conservation assessment-related portion of its distribution rates.

3. A Case Conference was held in Dockets 2004-33, 2004-166, and 2004-192 on March 25, 2004.

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4. The OPA and the IECG were granted intervener status in Dockets 2004-33 and 2004-192 by the Examiner in his April 5, Procedural Order in these dockets. (April 5 Order). In that Order, Central Maine Power Company was also granted intervener status in Docket 2004-192 for the limited purpose of receiving copies of all filings in that Docket and submitting a brief, if necessary.

5. The Examiner's April 5 Order also consolidated Docket No. 2004-166 with Docket No. 2004-192 and closed Docket No. 2004-166. Docket No. 2004-33, which involves proposed changes to BHE's Terms and Conditions relating to the fees for service establishment and disconnection was not consolidated with Docket No. 2004-192 but was ordered to be processed on a parallel track with Docket No. 2004-192.

6. Following discovery, a Technical Conference was held on April 8, 2004 in these dockets. A second Technical and Settlement Conference was held on April 29, 2004.

III. RECOMMENDED APPROVALS AND FINDINGS

Based upon the record in this case, the parties to this Stipulation agree and recommend that the Commission conclude these proceedings by issuing an order that approves, accepts and adopts this Stipulation, including the following provisions:

A. Annual Percentage Price Change

BHE's July 1, 2004 Annual Percentage Price Change (APPC) shall be a reduction of its core distribution rates by 2.44%, except that this APPC will not apply to (1) the unbundled conservation rates established in Docket No. 2003-516; or (2) the tailblock (i.e. discounted portion) of BHE's Residential Low Income Rates. The APPC is comprised of two components: (1) the Basic Rate Reduction of -2.75% and (2) the recovery of \$171,000 in Low Income Program Costs that have been deferred by BHE. The parties agree that the \$171,000 low income costs recovered in rates through this year's adjustment is a one-time adjustment and shall be removed at the next annual ARP rate change. The calculation of the Change is set forth in Attachment A.

B. Low Income Program

BHE has \$1,122,025 in a deferral account reflecting the Company's calculation of the deficiency it has incurred over the last several years in operating its Low-Income Assistance Program pursuant to Chapter 314. ("Low-Income Program"). As shown in Attachment B, \$171,000 of this amount will be reflected in rates during the 12 month period from July 1, 2004 to June 30, 2005. The parties agree that there will be no further deferrals for BHE's Low-Income Program for all periods up through October 1, 2003.

BHE shall continue to defer on its books of account as a regulatory asset or a regulatory liability a Low Income Program Deferral amount equal to the difference between Low Income Subsidies provided (defined by the discount provided off BHE's regular residential rate) and Low Income Credits received (defined by the sum of (a) $0.000832518 \times$ core sales and (b) all amounts received from MSHA for the Program) beginning with the Low-Income Program year that commences October 1, 2003. The amounts deferred shall accrue carrying costs computed using BHE's cost of short-term debt under its Revolving Credit Agreement with Fleet Bank (which has been used to calculate carrying costs on BHE's deferrals under its Conservation Programs). Subject to the provisions of the next paragraph, the amounts deferred for each Low-Income Program year (October 1 through the following September 30) shall be reflected in BHE's Annual Percentage Price Change to its core distribution rates pursuant to paragraph 9 of the ARP Stipulation on July 1 of the following year.

Given the past history of deferrals, BHE agrees to propose a revised low-income program to take effect October 1, 2004 with the goal of matching collections with low-income expenditures. BHE agrees to submit its Revised Low-Income Proposal by July 1, 2004. Subsequent to the submission of this proposal, whenever the amounts to be deferred under this paragraph appear likely to create a regulatory asset in excess of \$200,000 in any Low Income Program Year, or \$100,000 or greater in two consecutive years. BHE shall formally request this Commission to make adjustments to its Low-Income Program (such as by decreasing the discount provided to participating customers) such that the benefits provided by BHE's Low Income Program are consistent with BHE's apportionment under the State-wide Low Income Program. BHE's request shall be filed as soon as it appears likely that deferrals in a program year may exceed \$200,000 or \$100,000 or greater in two consecutive years.

C. Mandated Costs Under BHE's ARP

1. No agreement has been reached that items identified by BHE in its filing qualify as mandated costs under the BHE ARP

2. The parties agree that Mandated Costs, as defined in paragraph 9 of BHE's ARP Stipulation, do not reach the threshold of \$750,000 for 2003 and therefore will not cause any adjustment to the 2.75% ARP Basic Rate Reduction to become effective on July 1, 2004, pursuant to paragraph 5 of the ARP Stipulation.

3. For purposes of calculating Mandated Costs in the future, the parties agree that only the following weather events qualify as "extraordinary weather events" as provided in paragraph 6 of the ARP Stipulation:

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- a) The event must be classified on the website of the National Climatic Data Center (a division of NOAA) or its successor entity (on a succeeding website) to be an “extreme weather event”; provided, however, that any weather event that satisfies the criteria of paragraphs (b) and (c) below and is not classified on this website as an “extreme weather event” shall nevertheless qualify as an “extraordinary weather event” if BHE demonstrates that the event’s failure to be classified as a “extreme weather event” is due to the oversight or neglect of the classifying agency and not to deliberate exclusion.” The satisfaction of the criteria in paragraphs b) and c) below, however, shall not create a presumption that the event should have been classified as an extreme weather event and BHE shall have the burden of proof to demonstrate that the failure to include the event on the NCDC website was a result of neglect or oversight.¹; and
- b) the event must directly result in BHE incurring more than \$400,000 of storm restoration costs defined as those costs prudently incurred and necessary to restore service to customers affected by the extreme weather event; and
- c) over 3 successive calendar days the event must result in disruption of service to more than:
 - i) 20% of BHE customers; or
 - ii) 50% of BHE customers within one of the four BHE operating divisions (Bangor, Northern, Hancock, and Washington).

Attached hereto as Attachment D is the Protocol for measuring the number of BHE customers whose service is disrupted as a result of a weather event. For the purpose of determining whether any weather event qualifies as an “extraordinary weather event” as defined in this paragraph C.3, the entire weather event shall be deemed to occur entirely within the calendar year in which it began.

¹ The applicable National Climatic Data Center (NCDC) website address is: <http://lwf.ncdc.noaa.gov/oa/climate/severeweather/extremes.html>. Upon reaching this site, choose "US Local Storm Reports." At that screen select "Maine" and "Continue." On the following screen, a Date Range, a County and an Event Type (e.g. "Precipitation," "Snow and Ice," "Thunderstorm and High Wind," etc.) can be selected. The "County" selector should be set to "All." A representative sample of pages from this website is attached hereto as Attachment C. As shown in Attachment C, under the category "U.S. Local Storm Reports" the results of a search for "Snow and Ice Storms" in all Maine Counties for the period January, 2000 through January, 2004 lists 166 events.

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In the event the NCDC or its successor entity ceases to classify weather events as "extreme weather events" the parties agree to work collaboratively to agree on an alternative objective third-party classification procedure.

D. Employee Transition Costs

The parties agree that BHE shall be allowed to amortize on its books of account certain costs related to the severance or early retirement of its employees related to the Company's three initiatives set forth in its response to ODR-02-04, (Attachment E to the Stipulation). The costs of the initiative labeled "meter" on Attachment E shall be limited to severances or early retirements that occurred during the period beginning January 1, 2004 and ending June 30, 2005; costs for the two initiatives labeled "IT" and "Warehouse" shall be limited to severances or early retirements that occurred during calendar year 2004. All costs must be prudently incurred. The amounts authorized for deferral shall not exceed the amounts set forth in Attachment E and shall not include tuition or outplacement costs not paid or incurred, and also shall not include the value of any vacation benefits paid to any affected employee. The amortization period shall be 10 years from the date of incurrence of such costs.

E. ARP Stipulation Preserved

Except as expressly provided herein, the parties agree that nothing in this Stipulation is intended to alter any term or conditions of BHE's ARP Stipulation.

F. Docket No. 2004-33 Filing

The parties agree that the Company's petition in Docket No. 2004-33 shall be dismissed without prejudice.

G. Effect of Rate Change

The price change resulting from this Stipulation shall be applied to the distribution delivery rates unbundled pursuant to the Stipulation in Docket No. 2003-516 and shall not apply to BHE's unbundled DSM conservation mil rate. The rates to be charged BHE's customers effective July 1, 2004 as a result of this Stipulation and the Stipulation in Docket No. 2003-516 are set forth in Attachment F.

IV. PROCEDURAL STIPULATIONS

1. Staff Presentation of Stipulation. The parties to the Stipulation hereby waive any rights that they have under 5 M.R.S.A. § 9062(4) and Section 742 of the

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Commission Rules of Practice and Procedure to the extent necessary to permit the Advisory Staff to discuss this Stipulation and the resolution of this case with the Commissioners at the Commission's scheduled deliberations, without providing to the parties an Examiners Report or the opportunity to file Exceptions.

2. Record. The record on which the parties enter into this Stipulation and on which the Commission may base its determination whether to accept and approve this Stipulation shall consist of (a) this Stipulation; (b) all filings in Dockets 2004-33, 2004-166, and 2004-192; (c) all documents and information provided in responses to written or oral data requests; and (d) the transcripts of any Technical Conferences and any other material furnished by the Advisory Staff to the Commission, either orally or in writing, to assist the Commission in deciding whether to accept and approve this Stipulation.

3. Non-Precedential Effect. This Stipulation shall not be considered legal precedent, nor shall it preclude a party from making any contention or exercising any rights, including the right of appeal, in any future Commission investigation or proceeding or any other trial or action.

4. Stipulation as Integrated Document. This Stipulation represents the full agreement between the parties to the Stipulation and rejection of any part of this Stipulation constitutes a rejection of the whole.

5. Incorporation of Attachments. All attachments referred to in this Stipulation are incorporated herein by reference and are intended to be considered as part of this Stipulation as if their terms were fully set forth in the body of this Stipulation.

6. Void if Rejected. If not accepted by the Commission in accordance with the provisions hereof, this Stipulation shall be void and of no further effect and shall not prejudice any position taken by any party before the Commission in this proceeding and shall not be admissible evidence therein or in any other proceeding before the Commission.

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Respectfully submitted this 26th day of May, 2004.

Public Advocate

By: _____

Bangor Hydro-Electric Company

By: _____

Industrial Energy Consumer Group

By: _____